

Application No.: 10/686,446

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REMARKS

Reconsideration is respectfully requested in light of the Remarks that follow.

Claims 1-30 are pending in the application, with claims 1, 9, 14, 23 and 28 being the independent claims.

Submission of Clean Copy of Original Declaration

At the first of two ¶ 1, the Office Action noted an apparent deficiency in the copy of the declaration currently on file with the Patent Office. Applicant respectfully traverses the statements of the Office Action and provides the following comments. First, applicant thanks Examiner Stein for a telephone conference on October 20, 2005 during which she discussed with applicant the unusual anomalies found with the scanned facsimile transmission received by the Patent Office. Applicant herewith re-submits a clean copy of the previously filed declaration. Finding no fault with the original declaration, applicant respectfully submits that, as the resubmitted copy shows, the original declaration was properly executed. Applicant notes that this is **not** a supplemental declaration. Applicant therefore respectfully requests that the Examiner accept the resubmission as evidence that the declaration has no deficiencies and consider the declaration to be sufficient.

Rejection under 35 USC § 102

At ¶¶ 1-2, the Office Action rejected, under 35 U.S.C. § 102(e), claims 14-15 and 28 as being anticipated by US Patent Application Publication No. 2004/0068666 to Tosey (hereinafter "Tosey").

Applicant respectfully traverses this rejection with the following grounds and comments. First, neither Tosey nor any of the cited references teach or suggest the identical steps as claimed in the present application. Specifically, Tosey is not a reference that teaches or enables each of the claimed elements, arranged as in the claim, expressly or inherently as interpreted by one of ordinary

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skill in the art. As such, the wireless wide area network (WWAN) module, which is coupled to a processor, operatively responsive to receiving WWAN signals and to awaken the processor when the processor is in a low power mode, as recited in claims 14-15, is neither taught nor suggested by Tosey or any of the cited references. Similarly, the method of claim 28, which claims the WWAN module coupling to the processor to awaken the processor from a low power mode, is neither taught nor suggested by Tosey or any of the cited references.

Specifically, Tosey appears to teach a processor (application processor, at ¶ 17) to awaken periodically from sleep to poll a WWAN module for any information which arrived during the period of sleep. See also Fig. 3 of Tosey at steps 306, 308, and 310. Tosey, therefore, appears to teach the opposite of the claimed invention, that is, in every instance, the processor of Tosey needs to awaken itself to check if the WWAN has received any information requiring the processor's attention.

The WWAN module of claimed invention is not identical to those described in the cited references, and at the very least, describes different operational approaches to achieve a similar, but not identical, result. Indeed, Tosey describes coupling a WWAN module to an application processor, where the application processor must poll the WWAN module to determine if it should wake from sleep, which is very different from the claimed invention.

Applicant respectfully submits the following comment regarding the level of ordinary skill and implied inherency discussed in the Office Action, which is made express in the obviousness rejections at ¶ 4. One of ordinary skill would appreciate that WWAN modules and processors can be coupled together, as taught in Tosey, but Tosey does not teach or suggest the awakening of a processor by a WWAN module. None of the cited references, including Tosey, provide for this feature. In short, the teachings of Tosey do not function in accordance with the limitations of the claimed invention and do not necessarily depend upon them to operate, thus none of the claims are not anticipated by Tosey, as will be described in further detail below. *In re King*, 801 F.2d 1324,

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231 USPQ 136, 138 (Fed. Cir. 1986). *See also Standard Oil Co. (Indiana) v. Montedison, S.p.A.*, 664 F.2d 356, 372, 212 USPQ 327, 341 (3d Cir. 1981) (for a claim to be inherent in the prior art it “is not sufficient that a person following the disclosure sometimes obtain the result set forth in the [claim]; it must invariably happen”), *cert. denied*, 456 U.S. 915, 215 USPQ 95 (1982).

In light of the grounds provided above, applicant respectfully submits that the Office Action has not provided a prima facie case for anticipation. Applicant respectfully tenders that the prima facie case for anticipation is lacking because, in part, “there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention.” *Scripps Clinic & Research Found. V. Genentech Inc.*, 927 F.2d 1565, 18 USPQ 2d, 1001, 1010 (Fed. Cir. 1991). In appreciation of *In re Oetiker*, 997 F.2d 1443, 1444 (Fed. Cir. 1992), which states that “if the examination at the initial stage does not produce a prima facie case of unpatentability, then without more the applicant is entitled to grant of the patent,” applicant respectfully submits that claims 14-15 and 28, and the claims which depend therefrom, are believed to be patentable over Tosey. Withdrawal of the rejection is respectfully requested.

Rejections under 35 USC § 103

At ¶¶ 3-4, the Office Action rejected, under 35 U.S.C. § 103(a), claims 1, 6-9, 16-19, and 22-26 as being unpatentable over Tosey.

At ¶ 5, the Office Action rejected, under 35 U.S.C. § 103(a), claims 2-5, 10-13, 20-21, 27, and 29-30 as being unpatentable over Tosey in view of US Patent Application Publication No. 2004/0128310 to Zmudzinski et al. (hereinafter “Zmudzinski”).

At ¶ 6, the Office Action rejected, under 35 U.S.C. § 103(a), claims 1-14, 18-21, and 23-27 as being unpatentable over Tosey in view of US Patent Application Publication No. 2003/0179725 to Lo et al. (hereinafter “Lo”).

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Applicant respectfully submits that these rejections have been rendered moot or are accommodated in light of the above-entered comments. As all of the obviousness rejections rely in some part on Tosey, applicant respectfully supplements these comments with the remarks.

At ¶ 4, the Office Action provides a rejection of claims 1, 6-9, 16-19, and 22-26 as being unpatentable over Tosey. As to independent claims 1, 9, 14, 23 and 28, applicant respectfully traverses on the grounds that Tosey does not teach nor does it suggest that the WWAN module wake up the processor or alternatively the filtering and determining operations as claimed. As stated above, Tosey teaches a processor that periodically polls a WWAN to see if the processor should handle any instructions received by the WWAN module. Furthermore, applicant respectfully traverses the Office Actions statements with respect to the inherency of the WWAN module waking up the processor. Applicant respectfully submits that the claimed invention has at least this unobvious difference with the cited reference. The claims recite the waking of the processor by a WWAN module coupled to it, which is the opposite of what is taught in the cited references.

For at least the deficiencies in the teachings of Tosey, applicant respectfully submits that the Office Action has not established a prima facie case for obviousness. Furthermore, applicant respectfully submits that the separate combinations of Tosey with Zmudzinski and with Lo do not overcome these deficiencies.

Zmudzinski appears to teach the use of a client proxy, such as IM Client Proxy 300 in Fig. 1, to store messages that would otherwise be delivered to a computing device, such as mobile telephone 200, unless an important message is received by the client proxy, and then the messages may be forwarded to the computing device, which appears to wake when it receives any message. Zmudzinski does not teach nor suggest a module to store these messages at the computing device and to wake the processor of the device when required. Zmudzinski appears to teach a computing

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device which may or may not enter a sleep (low power) state when it is not receiving messages, which does not necessarily mean that it will be able to do so.

Similarly, Lo appears to teach an access point, such as access point 70 in Fig. 2, which is located at a station other than a host station, which is to enter sleep mode. The access point of Lo appears to filter information depending on the importance of a packet arriving over the network, and as with Zmudzinski, the host station appears to wake when any message is passed to it.

Applicant respectfully submits that neither Zmudzinski nor Lo teach or suggest the awakening of the processor of the claimed invention. Furthermore, applicant respectfully submits that none of the cited references provide the requisite teaching or suggestion to one of ordinary skill in the art to modify the physical devices of Tosey to perform the operations of the claimed invention. Applicant respectfully submits that the Office Action does not provide a suggestion to combine or modify the references, and that it furthermore does not provide evidence that the combination or modification would appear to be sufficient to have made the claimed invention obvious to one of ordinary skill in the art.

For at least the above reasons, applicant respectfully submits that claims 1-30 are believed to be patentable over the cited references, both individually and in combination. Furthermore, while the independent claim have been specifically discussed, the claims depending from them are believed to be allowable for at least the reasons described above, and further in view of their own respective features. Withdrawal of these rejections is respectfully requested.

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Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all currently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

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Respectfully submitted,

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